

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
SIXTY-FIRST LEGISLATURE

---

**FORTY-THIRD LEGISLATIVE DAY**  
**MONDAY, FEBRUARY 20, 2012**

Senate Chamber

President Little called the Senate to order at 10 a.m.

Roll call showed all members present except Senators Andreason and Cameron, absent and excused.

Prayer was offered by Chaplain Keith Buhler.

The Pledge of Allegiance was led by Jamie Bush, Page.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### Petitions, Resolutions, and Memorials

#### PETITION TO WAIVE JOINT RULE 20

We, the majority leadership of the Senate, petition that the President waive the provisions of Joint Rule 20 pertaining to the limitation on introduction of proposed constitutional amendments, which would permit the introduction and consideration of **SJR 106** to amend the Constitution of the State of Idaho by preserving for the people of Idaho the rights to hunt, fish and trap.

Signed:

/s/ Brent Hill, President Pro Tempore  
/s/ Bart M. Davis, Majority Leader  
/s/ Chuck Winder, Assistant Majority Leader  
/s/ John McGee, Majority Caucus Chair

Upon presentation of the petition, the President waived the provisions of Joint Rule 20 for the introduction of **SJR 106**. The correspondence was ordered filed in the office of the Secretary of the Senate.

### **SJR 106** **BY STATE AFFAIRS COMMITTEE** **A JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 23, ARTICLE I, TO PROVIDE THAT THE RIGHTS TO HUNT, FISH AND TRAP ARE A VALUED PART OF THE HERITAGE OF THE STATE OF IDAHO AND SHALL FOREVER BE PRESERVED FOR THE PEOPLE AND MANAGED THROUGH THE LAWS, RULES AND PROCLAMATIONS OF THE STATE AND TO PROVIDE THAT THE RIGHTS SET FORTH DO NOT CREATE A RIGHT TO TRESPASS ON PRIVATE PROPERTY,

SHALL NOT AFFECT RIGHTS TO DIVERT, APPROPRIATE AND USE WATER, OR ESTABLISH ANY MINIMUM AMOUNT OF WATER IN ANY WATER BODY, AND SHALL NOT LEAD TO A DIMINUTION OF OTHER PRIVATE RIGHTS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

**SJR 106** was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

Senator Cameron was recorded present at this order of business.

The Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

February 20, 2012

The JUDICIARY AND RULES Committee reports that **S 1333** has been correctly printed.

DARRINGTON, Chairman

**S 1333** was referred to the Finance Committee.

February 17, 2012

The JUDICIARY AND RULES Committee reports that Enrolled **S 1213** was delivered to the Office of the Governor at 1:23 p.m., February 17, 2012.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 17, 2012

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

J. Marshall Garrett to the Bingo-Raffle Advisory Board, term to expire January 7, 2015.

Wendy Lively to the Bingo-Raffle Advisory Board, term to expire January 7, 2015.

MCKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 17, 2012

The STATE AFFAIRS Committee reports out **H 369**, **S 1285**, and **S 1286** with the recommendation that they do pass.

MCKENZIE, Chairman

**H 369**, **S 1285**, and **S 1286** were filed for second reading.

February 17, 2012

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Tom Schultz as the Director of the Department of Lands, term to continue at the pleasure of the Governor.

PEARCE, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 17, 2012

The RESOURCES AND ENVIRONMENT Committee reports out [S 1289](#) and [S 1290](#) with the recommendation that they do pass.

PEARCE, Chairman

[S 1289](#) and [S 1290](#) were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

February 17, 2012

Dear Mr. President:

I transmit herewith [H 464](#), which has passed the House.

ALEXANDER, Chief Clerk

[H 464](#) was filed for first reading.

February 17, 2012

Dear Mr. President:

I return herewith Enrolled [S 1219](#) and [S 1222](#), which have been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1219](#) and [S 1222](#) were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

#### Motions and Resolutions

The President announced that [HJM 7](#) was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Winder, seconded by Senator Stennett, [HJM 7](#) was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

The President announced that [HJM 4](#) was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator McKenzie, seconded by Senator Stennett, [HJM 4](#) was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

The President announced that [SCR 112](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Broadsword, seconded by Senator Schmidt, [SCR 112](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

Senator Andreason was recorded present at this order of business.

The President announced that [SCR 117](#) was before the Senate for final consideration.

Moved by Senator Siddoway, seconded by Senator McGee, that [SCR 117](#) be adopted. The question being, "Shall the resolution be adopted?"

Pursuant to Senate Rule 39(H), Senator Siddoway disclosed a possible conflict of interest under applicable law.

Roll call vote was requested by Senator Bock.

Roll call resulted as follows:

AYES—Andreason, Bair, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, Lodge, McGee, McKague, McKenzie, Mortimer, Nuxoll, Pearce, Siddoway, Smyser, Tippets, Toryanski, Vick, Winder. Total - 28.

NAYS—Bilyeu, Bock, LeFavour, Malepeai, Schmidt, Stennett, Werk. Total - 7.

Total - 35.

Whereupon the President declared [SCR 117](#) adopted, title was approved, and the resolution ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

##### S 1334

##### BY STATE AFFAIRS COMMITTEE AN ACT

RELATING TO A MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM; AMENDING SECTION 39-116B, IDAHO CODE, TO PROVIDE FOR A REPAIR WAIVER AND A HARDSHIP WAIVER AND TO PROVIDE FOR RECOMMENDATIONS TO THE LEGISLATURE FROM THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

##### S 1335

##### BY STATE AFFAIRS COMMITTEE AN ACT

RELATING TO THE IDAHO ENERGY RESOURCES AUTHORITY; AMENDING SECTION 67-8907, IDAHO CODE, TO REDUCE THE AMOUNT OF THE SURETY BONDS THAT OFFICERS MUST EXECUTE.

[S 1334](#) and [S 1335](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 464](#), by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

### **Second Reading of Bills**

[S 1310](#), [S 1312](#), and [S 1313](#), by Transportation Committee, were read the second time at length and filed for third reading.

[S 1307](#) and [S 1308](#), by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

[H 374](#) and [H 375](#), by Business Committee, were read the second time at length and filed for third reading.

[H 438](#), by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

[S 1314](#), by Education Committee, was read the second time at length and filed for third reading.

[S 1316](#), by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

[S 1327](#), [S 1328](#), and [S 1329](#), by Education Committee, were read the second time at length and filed for third reading.

[S 1215](#), as amended, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

[S 1255](#), as amended, and [S 1277](#), as amended, by Health and Welfare Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### **Third Reading of Bills**

On request by Senator Lodge, granted by unanimous consent, [S 1281](#) was recommitted to the Health and Welfare Committee.

On request by Senator Davis, granted by unanimous consent, Senate bill [S 1274](#) was placed at the head of the Third Reading Calendar, followed by Senate bill [S 1215aa](#), followed by all remaining Senate bills, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Tenth Order of Business.

### **Motions and Resolutions**

On request by Senator Davis, granted by unanimous consent, the Senate went at ease and resolved itself into the Committee for the Memorial Service.

### **MEMORIAL SERVICE**

The Service was conducted by Memorial Service Committee Co-Chairmen Senator Lee Heider and Senator Dan Schmidt. The Invocation was delivered by Senator Diane Bilyeu. Dr. Marcus Wolfe, on saxophone, and Chuck Smith, on piano, played "Andante con gravita" by W. Ferling, Op.31. The Service was coordinated by June Keithly, Executive Assistant to the Secretary of the Senate.

### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator KENNETH BRADSHAW passed on during the First Regular Session of the Sixty-first Legislature - to wit, February 15, 2011.

WHEREAS, the late Senator KENNETH BRADSHAW served in the interest of Camas, Gooding and Jerome Counties during the Forty-fourth through the Forty-sixth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator KENNETH BRADSHAW; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the KENNETH BRADSHAW family.

On motion by Senator Stennett, seconded by Senator Davis, the Memorial to the late Senator Bradshaw was adopted by voice vote.

### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator VEARL CRYSTAL passed on since the close of the First Regular Session of the Sixty-first Legislature - to wit, October 20, 2011.

WHEREAS, the late Senator VEARL CRYSTAL served in the interest of Custer, Clark, Jefferson, Lemhi and Butte Counties during the Forty-fourth through the Forty-ninth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator VEARL CRYSTAL; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the VEARL CRYSTAL family.

On motion by Senator Siddoway, seconded by Senator Brackett, the Memorial to the late Senator Crystal was adopted by voice vote.

### **IN THE SENATE A SENATE MEMORIAL**

WHEREAS, the late Senator DON MACKIN passed away since the close of the First Regular Session of the Sixty-first Legislature - to wit, April 20, 2011.

WHEREAS, the late Senator DON MACKIN served in the interest of Latah County during the Forty-ninth through the Fiftieth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator DON MACKIN; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the DON MACKIN family.

On motion by Senator Schmidt, seconded by Senator Darrington, the Memorial to the late Senator Mackin was adopted by voice vote.

**IN THE SENATE  
A SENATE MEMORIAL**

WHEREAS, the late Senator WILLIAM CRUTCHER passed on since the close of the First Regular Session of the Sixty-first Legislature - to wit, July 9, 2011.

WHEREAS, the late Senator WILLIAM CRUTCHER served in the interest of Clearwater and Nez Perce Counties during the Thirty-ninth through the Fortieth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator WILLIAM CRUTCHER; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the WILLIAM CRUTCHER family.

On motion by Senator Johnson, seconded by Senator Bilyeu, the Memorial to the late Senator Crutcher was adopted by voice vote.

**IN THE SENATE  
A SENATE MEMORIAL**

WHEREAS, the late Senator WARREN ISRAEL MERRILL passed on during the First Regular Session of the Sixty-first Legislature - to wit, February 28, 2011.

WHEREAS, the late Senator WARREN ISRAEL MERRILL served in the interest of Bingham County during the Forty-fourth through the Forty-seventh Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator WARREN ISRAEL MERRILL; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the WARREN ISRAEL MERRILL family.

On motion by Senator Bair, seconded by Senator Stennett, the Memorial to the late Senator Merrill was adopted by voice vote.

**IN THE SENATE  
A SENATE MEMORIAL**

WHEREAS, the late Senator JAMES McCLURE passed away during the First Regular Session of the Sixty-first Legislature - to wit, February 26, 2011.

WHEREAS, the late Senator JAMES McCLURE served in the interest of Payette County during the Thirty-sixth through the Thirty-eighth Legislatures of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature of the State of Idaho draws public attention by this Memorial to the life and works of Senator JAMES McCLURE; and

BE IT FURTHER RESOLVED that the Senate of the Second Regular Session of the Sixty-first Legislature extends to the bereaved family the heartfelt sympathy of this entire body; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be and she is hereby instructed to spread this Memorial upon the Journal of the Senate and to mail copies to the JAMES McCLURE family.

On motion by Senator Pearce, seconded by Senator Fulcher, the Memorial to the late Senator McClure was adopted by voice vote.

Dr. Marcus Wolf, on saxophone, and Chuck Smith, on piano, played "Adagio con espressione" by W. Ferling, Op. 31. The Benediction was offered by Senator Russell Fulcher, and the Memorial Service was dissolved.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Malepeai, by voice vote, the Senate adjourned at 12:40 p.m. until the hour of 10 a.m., Tuesday, February 21, 2012.

BRAD LITTLE, President

Attest: JENNIFER NOVAK, Secretary